APPEALS BOARD
UTAH LABOR COMMISSION

RON CANFIELD, **Petitioner,** **vs.** **BRENT BROWN CHEVROLET and EMPLOYERS COMPENSATION INSURANCE COMPANY,** **Respondents,**	**ORDER MODIFYING ALJ'S DECISION** **Case No. 05-1107**

Ron Canfield asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of Mr. Canfield claim for medical benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Mr. Canfield accidentally injured his low back while working for Brent Brown Chevrolet on August 2, 2004. On December 22, 2005, Mr. Canfield filed an application for hearing with the Commission to compel Brent Brown Chevrolet and its insurance carrier, Employers Compensation Insurance Company (referred to jointly as "Brown" hereafter), to pay additional workers' compensation benefits for his injury.

Judge La Jeunesse held an evidentiary hearing on Mr. Canfield's claim, and then appointed a panel of medical experts to consider the medical aspects of the claim. The panel concluded that Mr. Canfield's work accident had caused "nonspecific low back pain" that was properly treated with an initial course of physical therapy and medication. However, the panel found the subsequent treatment that Mr. Canfield received through a pain management center—spinal injections, rhizotomies and narcotics—not reasonable or necessary. Based on the panel's report, Judge La Jeunesse ruled that Brown was liable for Mr. Canfield's initial treatment, but not the subsequent pain center treatment.[1]

In requesting review of Judge La Jeunesse's decision, Mr. Canfield argues that, even if the treatments he received through the pain management center were unsuccessful, the treatments were nonetheless reasonably calculated to treat his low back injury and, therefore, must be paid by Brown.

[1] Judge La Jeunesse also addressed Mr. Canfield's claim for additional temporary total disability compensation. Neither party has requested review of that part of Judge La Jeunesse's decision.

DISCUSSION AND CONCLUSIONS OF LAW

As a preliminary matter, the Appeals Board accepts Judge La Jeunesse's findings that: Mr. Canfield's work for Brown on August 2, 2004, caused a low back injury; Mr. Canfield's initial physical therapy and medication were necessary to treat this injury; and Mr. Canfield's subsequent spinal injections, rhizotomies and narcotics were not appropriate treatment for the injury.

Section 34A-2-418(1) of the Utah Workers' Compensation Act requires employers or their insurance carriers to pay "reasonable sums for medical . . . services . . . necessary to treat the injured employee." Because Mr. Canfield's initial physical therapy and medication were necessary to treat his work injuries, Brown is liable for the reasonable expense of that initial medical care. However, liability for Mr. Canfield's subsequent medical treatment presents a more difficult question.

In essence, Mr. Canfield argues that an employer's obligation to pay for an injured worker's medical treatment cannot turn entirely on an after-the-fact judgment that the treatment was unsuccessful or unnecessary. This argument is supported by the Utah Supreme Court's decision in *Gunnison Sugar Co. v. Industrial Commission*, 275 P. 777 (Utah 1929), holding that an injured worker is entitled to payment of medical expenses incurred in reasonable reliance on a physician's recommendation for treatment, even if the recommendation is wrong and the treatment is actually unnecessary.

The Labor Commissioner has addressed this same issue in two recent cases.[2] In each case, the Commissioner focused on whether the injured worker reasonably relied on his or her physician's recommendations for the treatment in question. Specifically, the Commission considered whether the employer or its insurance carrier had approved or acquiesced in the treatment, and whether the injured worker actually knew that other medical experts considered the treatment unnecessary.

In this case, starting in January 2005, Mr. Canfield began to receive more aggressive treatment for his back problems at a pain management center. Mr. Canfield had no reason to question the medical necessity of these treatments until October 27, 2005, when Brown notified Mr. Canfield that "[p]er independent records review conducted by Dr. Richard Knoebel, treatment and disability is not related to the 8/4/4 incident. We deny liability going forward."

Under these circumstances, the Appeals Board concludes that Mr. Canfield reasonably relied on the pain management center's treatment recommendations until October 27, 2005, when Mr. Canfield was informed that Brown viewed the treatment as unnecessary based on Dr. Knoebel's opinion. Brown is liable for the reasonable cost of Mr. Canfield's medical treatment prior to

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2 Overby v. Sundwall, Case No. 01-0297, issued August 2005; and Wade v. City Market, Case No. 02-0849, issued July 2005.

October 27, 2005, but is not liable for the expense of any additional treatment after that date.

ORDER

The Appeals Board modifies paragraph two of Judge La Jeunesse's order, found at page eleven of his decision, as follows:

> Brent Brown Chevrolet and Employers Compensation Insurance Company shall pay the reasonable expense of Mr. Canfield's medical care received prior to October 27, 2005, for treatment of his work accident of August 2, 2004. Brent Brown Chevrolet and Employers Compensation Insurance Company are not liable for Mr. Canfield's medical treatment on or after October 27, 2005. All sums ordered for medical treatment herein shall be paid according to Utah Code §34A-2-418 and the medical and surgical fee schedule of the Utah Labor Commission, and any travel allowances under Utah Administrative Code, Rule R612-2-20, plus interest at eight percent (8%) per annum, under Utah Code §34A-2-420(3) and Utah Administrative Code, Rule R612-2-13.

The remaining provisions of Judge La Jeunesse's order remain in effect. It is so ordered.

Dated this 31st day of May, 2007.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch